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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,451	10/16/2003	Richard J. Ernst	14303	8743

7590 12/03/2004

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EXAMINER
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SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/687,451	Applicant(s) ERNST ET AL. 	
	Examiner Kofi A. Schullerbrandt	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 11 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10, 12-15 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>012004 &amp; 101603</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This first Office Action is in response to Applicant's originally filed Application received in the Office on November 19, 2004.

#### ***Election/Restrictions***

Claims 5-7, 11 and 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 19, 2004.

Applicant's election with traverse of Species III in the reply filed on November 19, 2004 is acknowledged. The traversal is on the ground(s) that there is not a sufficient burden on the examiner because the inventions are sufficiently similar making the search reasonable. Furthermore applicant asserts that all of the Species are directed to a rod hanger. This is not found persuasive because the search will still be excessive. Even though the Species are directed to a rod hanger, because the structure is simple and because numerous other prior art references including non-hanger references may properly read 35 U.S.C. 102 on the claims there is no finite search area for the claimed invention.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

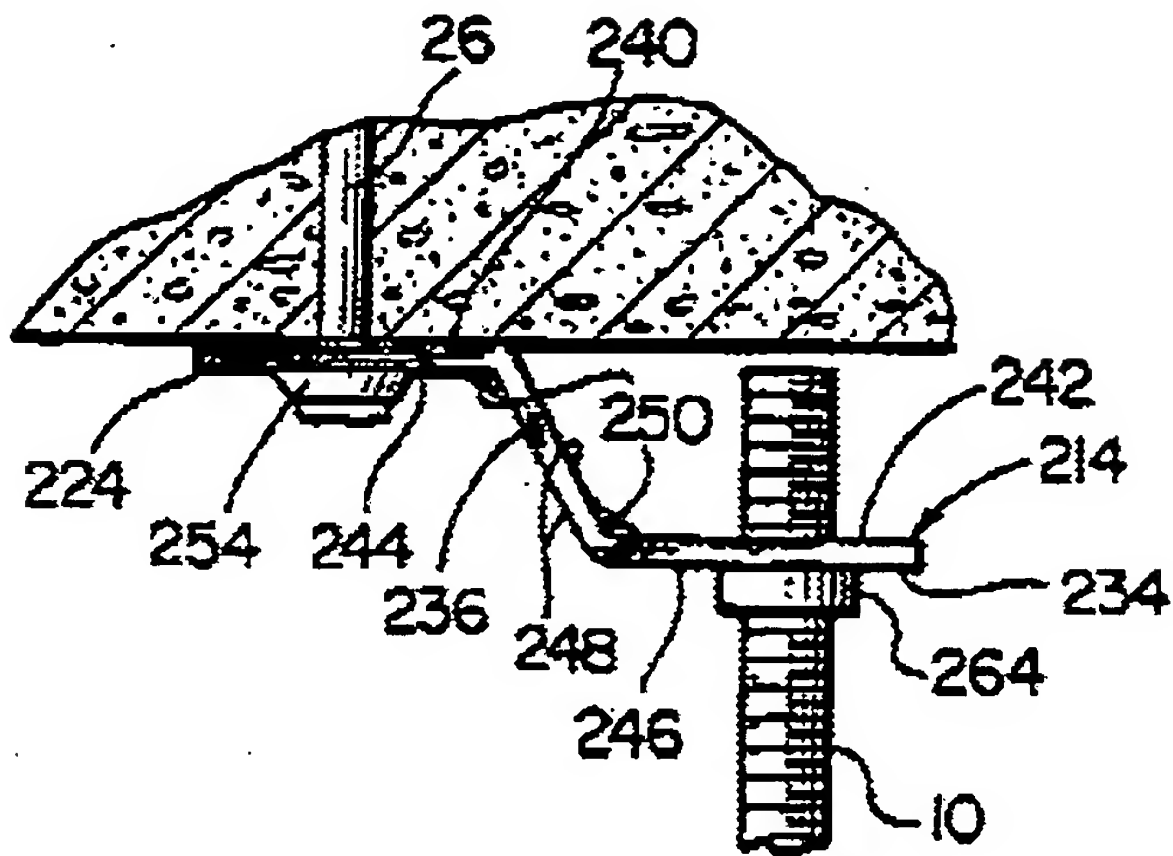
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

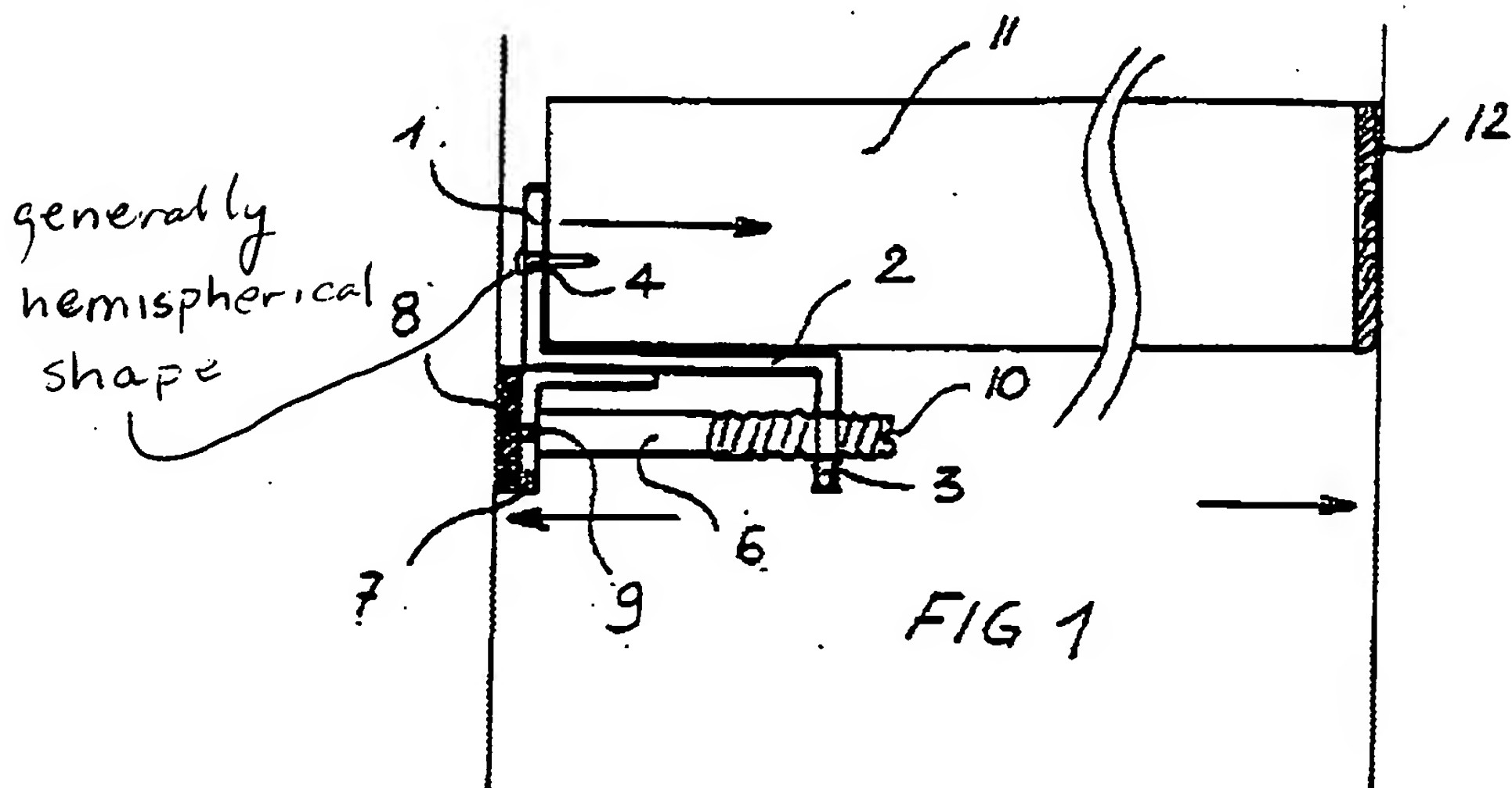
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-10, 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Logue (5,758,465). Logue teaches each feature of the claimed invention as shown below. Logue teaches a mounting portion (224), a rod receiving portion (246) and a connecting element (236). Regarding claims 1, 4 and 13, Logue's anti-rotational element is the fastening member (26 and 254) which provides a normal force between the substrate and a surface of (224). Regarding claim 3, Logue teaches a fastener (26) and a hole (52). Regarding claim 6, Logue clearly teaches a pin end and a shank portion (See Figure 3) and Figure 6, below clearly teaches the fastener head contained in (254). Regarding claim 8, Logue clearly teaches the claimed threaded hole and threaded lip (264) for receiving threads (10). Regarding claim 22, Logue's top surface is the surface of the mounting portion that makes contact with the fastener head (254). Therefore the fastener/anti-rotation element is on the top surface.

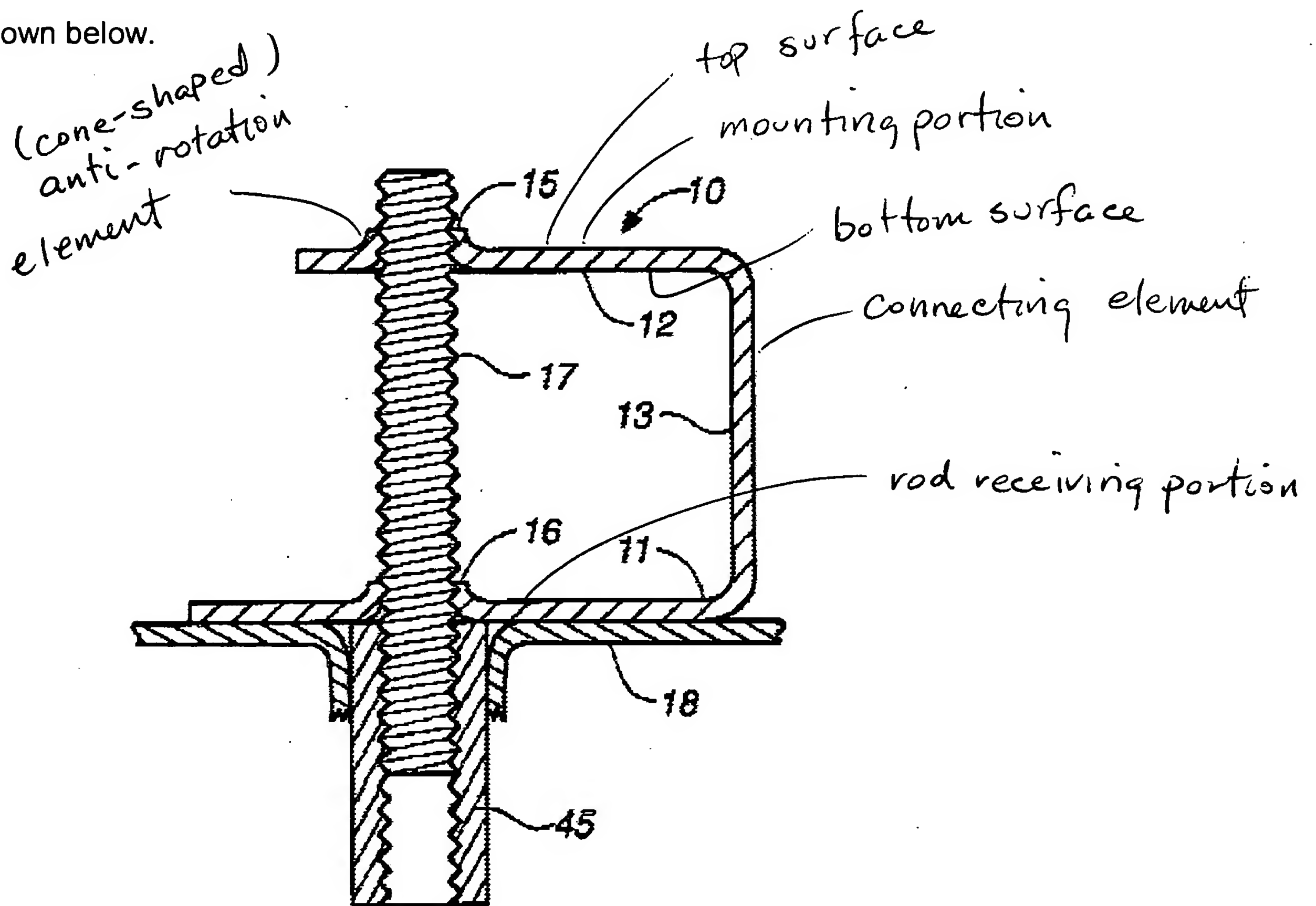
FIG. 6



Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Marietta (WO 92/21266). Logue teaches each feature of the claimed invention as shown below. Logue teaches a mounting portion (1) a rod receiving portion (3), a connecting portion (2), an anti-rotation element (4) with a generally hemispherical shape (head of the fastener (4) Figure 1).



Claims 13 and 15 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Roth (5,937,609). Roth teaches each feature of the claimed invention as shown below.



**FIG. 7**

**Prior Pertinent Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '158 to Masas; 077 to Heath; and '596 to Sidoli and French '941 to Marietta each teach hanging fasteners.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulerbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kofi Schulerbrandt  
November 30, 2004